

REGULAR MEETING
TOWN OF LAKE PLACID TOWN COUNCIL
AUGUST 10, 2009 5:30 P.M.

Mayor Tom Katsanis called the regular meeting of the Lake Placid Town Council to order on Monday August 10, 2009 at 5:30 P.M. at Town Hall, 311 W. Interlake Boulevard, Lake Placid, Florida. A quorum was present. Rev. Ray Cameron gave the invocation and led in the Pledge of Allegiance to the Flag.

ROLL CALL:

Mayor Tom Katsanis
Council Member Steve Bastardi
Council Member Carol Smart
Council Member Charles Wilson
Council Member Ray Royce

Town Clerk Arlene Tuck
Town Attorney Bert Harris
Town Public Works Director Jim Fulton
Town Planner Sue BuChans

ABSENT:

Town Police Chief Phil Williams
Town Utility Director Gary Freeman
Town Recreation Director John Komasa

CONSENT AGENDA:

- A. Approval of Agenda
- B. Approval of Monthly Meeting Minutes and Special Meeting Minutes
- C. Approval of Monthly Reports and Payment of Monthly Bills
- D. Resolution – Recognizing Back to Basics

Council Member Royce made a motion the consent agenda be approved as presented; motion seconded by Council Member Wilson. On roll call, motion carried unanimously.

DEPARTMENT HEADS/MAYOR/COUNCIL MEMBERS:

A. Town Planner:

- 1. Update on Shore Club of Lake Placid – Mr. John McClure stated he had been contacted by Mrs. Tuck, as requested by the Town Council, to review the April 11, 2006 Developers Agreement entered into between the Town of Lake Placid and Lake Sirena Estates. Mr. McClure stated the property is now owned by Heartland National Bank, of which Town Atty. Harris is a Director, and therefore, unable to provide an opinion.

Mr. McClure stated Carnihan, Proctor and Cross, Inc., the project engineers, have requested clarification from Town Council as to whether Phase I and Phase II of the preliminary plat can be separately developed as distinct and separate phases so long as all the conditions of the Development Agreement and other permit conditions are met. Mr. McClure stated the Town has requested his legal opinion regarding the status of the viability of the Development Agreement and whether the property may be separately developed in two phases.

Mr. McClure stated in rendering his opinion, he had reviewed the Developers Agreement, the June 18, 2007 meeting minutes of the Lake Placid Local Planning Agency/Board of Adjustment and the July 9, 2007 Town Council meeting minutes, met with Don Hanna and Sue BuChans of the County Planning Staff and talked to

several Council Members. He stated it was his opinion that the project can be developed in separate phases, but there are several prerequisites that would be required before this can be accomplished. These contingencies are: (1) road right-of-ways mentioned in paragraph 7(c) of the Development Agreement; (2) Water Use Agreement which was to be entered into with the Town within 60 days of preliminary plat approval; (3) Drainage areas serving Phase I and Phase II. Two areas designated as drainage areas overlap. It is not clear that the portion in Phase I is sufficient to serve the storm water retention requirements of Phase I, and it does not appear that it is to be split or separately developed.

Mr. McClure stated it was his opinion that failure of the developer to comply with the rights of way dedication and completion of the Water Use Agreement could be grounds for the Town to determine that the preliminary plat approval is no longer viable. He stated he would recommend that the Town respond by requiring that the preliminary plat be amended to separately show the retention areas servicing each phase so as to allow separate phase development. It does not appear that road access or other issues exist. Further, upon resubmission of the required revised preliminary plat, dedication of the rights of way as depicted in Paragraph 7(c) of the Development Order, entry into the water capacity assignment and depiction of the water line easement on the preliminary plat, the Town should approve the revised preliminary plat. Final plat approval would be contingent upon compliance with the Developers Agreement and the additional requirements set forth in the minutes of the Town Council of their July 9, 2007 meeting.

Mr. McClure further noted there is a requirement for contribution of \$15,000.00 for a multi-use path along the westerly side of Green Dragon Drive, as well as a requirement to construct Marquata Drive from Green Dragon Drive to the proposed entrance for the Phase II area of the plat to Marquata Drive. Both of these improvements are tied to the development of Phase II pursuant to the Development Agreement. While it is Mr. McClure's opinion the Development Agreement remains in effect and that upon compliance with the matters addressed, the property can be developed in separate phases in compliance with the Development Agreement and other requirements set forth by the Town, the better way to complete the matter would be to convert the project to separate Planned Unit Developments (PUD).

Mr. James Clinard, representing Heartland National Bank, was present and stated they had given the Highlands County Planning Department a new set of preliminary plans, construction plans and water and sewer, and he thought they were exactly like the ones on file with the Planning Department. Mr. Clinard stated he felt it was advisable to go back to the planning and stop all further action and ask what does it take with the intend of this subdivision to be Phase I and Phase II. What does it take to draw a line and say you can get your final plan recorded on Phase I when you do the infrastructure that is necessary. He stated that was clearly the intent. Heartland National Bank is just interested in what will it take to get the preliminary plat designated as Phase I and Phase II and what will it take to be able to procedure with Phase I at this time and later go to Phase II.

Council Member Royce made a motion that we move down the course of asking our Planning Staff to continue to investigate this along the lines as explained by Mr. Clinard and the Town retain Attorney McClure to the extend necessary after the Planning Department has taken another look at this, but before, if in the opinion of the Clerk or the Mayor or the Planning Staff we need to delve really far off course before we start to incur really serious legal bills or engineering bills that it be brought back to the Council; motion seconded by Council Member Bastardi. On roll call, motion carried unanimously. Council Member Royce further advised Mrs. BuChans she should notify H. L. Bennett, the Town's Engineer, and advise him he should stop any work he may have started on this project until Heartland National Bank and the Planning Staff can meet.

Mrs. BuChans asked if she could summaries. She stated her understanding was:

1. Tomorrow she will call H. L. Bennett and put everything with him on hold
2. Planning Staff is going to meet with Heartland National Bank in the planning department.
3. Review the plat to see what is there and what are the inconsistencies are.

4. Heartland National Bank will meet with their engineers to see how the plan needs to be modified due to the inconsistencies
5. Then Heartland National Bank will direct the Planning Staff when it is ready to be sent off to the engineers
6. Once the engineer has reviewed, then the Planning Staff will again meet with Mr. McClure.

Council Member Royce stated he felt once Heartland National Bank returned after their engineers had corrected any inconsistencies, the Planning Department should be able to take it from there.

B. Public Works Director:

1. Envisors – LAP certification – Mr. Steve Elias, of Envisors Engineering, was present and stated he had been working with staff on becoming Local Agency Program (LAP) certified. The LAP program allows local agencies to identify project specific needs within their community. He stated he had sent Staff a Resolution that needs to be approved by the Council so we can move forward. Council Member Royce made a motion that the Town Council of the Town of Lake Placid, Florida hereby authorizes Mayor Katsanis and staff to execute the Local Agencies certification qualification agreements as well as other documents necessary to seek and ultimately obtain Local Agency Program approval; motion seconded by Council Member Smart. On roll call, motion carried unanimously.
2. Bid Opening on Road Project – Mr. Fulton stated we had received four bids from our advertisement to repave roads, as follows:

a. Excavation Point, Inc.	\$89.09 per ton
b. Dalyn Real Estate Deve.	\$95.00 per ton
c. Better Roads, Inc.	\$98.00 per ton
d. Empower Construction, Inc.	\$107.92 per ton

He stated Staff was recommending the low bid by Excavation Point. Council Member Bastardi made a motion the Town accept the low bid of Excavation Point; motion seconded by Council Member Smart. On roll call, motion carried unanimously. Mr. Fulton was asked to check and see if the bid could be secured for a period of time.

3. Maurice Wilson – owner of a rental unit in Serenity Subdivision was present complaining about the washout in his yard. Mr. Wilson stated every time it rained, it washed out the sand in his yard and caused large holes. Mr. Fulton stated Mr. Wilson has complained about this matter several times and the Town has repaired the situation. Mr. Fulton stated last time the Town leveled the area with sand and sod. However, Mr. Wilson had several dogs that dug up the sod and the area and caused large holes. Mr. Fulton stated we could not continue repairing the area because it is really Mr. Wilson’s problem. Council Member Bastardi recommended Mr. Wilson contact the office and get the telephone number for Southwest Florida Water Management District and file a complaint concerning the drainage problem. Mrs. Debra Worley stated she felt the problem is caused because after the subdivision was constructed several residents paved the alleyway for driveways. Because of the paving there is no place for the water to soak into the ground and it runs down the street.
4. Lake Clay Watershed Project – Mrs. Debra Worley presented Council with a proposed Easement Agreement for Lake Clay, Resolution and proposal for the treatment of runoff into Lake Clay. The treatment would be construction of a drainage project to be funded by Southwest Florida Water Management District. Mrs. Worley stated the project was ready to move forward. Council Member Royce made a motion that if the Town Attorney and Mayor were satisfied that the legalese and insurance requirements and other associated details to this agreement were satisfied and protected the Town adequately, the Mayor is then authorized to execute the agreement and go forward and let the project with the County and the Water Management

District and the owner go forward; motion seconded by Council Member Bastardi. On roll call, motion carried unanimously.

5. Ben Tucciarone – was present to complain that he is having more problems with water going into his store because the sidewalk is not built up. Mr. Tucciarone owns the building on the corner of North Main Avenue and Park Drive. Mr. Fulton stated he does not know of anyway to correct the problem. Council Member Royce made a motion we spend a couple hundred dollars and raise the curb and try to make it work; motion seconded by Council Member Bastardi. On roll call, motion carried unanimously. Atty. Harris asked Mr. Tucciarone if that was acceptable with him and he agreed it was.
6. Schooni's Tree – Mr. Fulton stated he had gotten an estimate to place a small ramp across the open space next to the tree in front of Schooni's. The estimate would be around \$1,200.00. Council Member Bastardi made a motion the Town remove the tree; motion seconded by Council Member Smart. On roll call, Council Member Bastardi and Council Member Smart voted yes; Council Member Wilson and Council Member Royce voted no. Mayor Katsanis voted yes to break the tie. Motion carried 3 to 2.

C. Police Chief:

1. Ordinance No. 09-591 – Special Magistrate (Adoption only) Council decided to wait until the Police Chief (who was not present at the meeting) could be at the Council meeting.
2. Ben Tucciarone – Code Enforcement – Mr. Tucciarone stated he had received a citation from the Code Enforcement Officer that he had to remove all his goods for sale from the front of his store on the corner of North Main Avenue and Park Street, because it has been determined that the sidewalk belongs to the Town. The Town's Code states no one is to use public property for sale of items. Mr. Tucciarone asked why some businesses have benches, flower pots, newspaper racks, etc. He was told by Atty. Harris as long as it is not an item for sale and it is something the public can benefit from, it is allowed on the sidewalk.

D. Utility Director:

1. Sewer Connections – Staffs' Recommendation – Several property owners from North Main Avenue were present to complain about the sewer. They stated when they were told they had to hook up to the sewer, they did it. They do not feel it is fair that they have spent their money to hook up and others are getting by without hooking up. They felt their impact fee should be returned to them. Mrs. Tuck stated Mr. Freeman was at a class and could not attend the meeting. However, Mr. Freeman and she met with the individuals and staff felt the following recommendation was appropriate:

Return the impact fee monies to anyone who has paid it since January 1, 2007, place a moratorium on the impact fee for one year and revisit it in one year, and start charging sewer base rate and usage to anyone who can be connected to the sewer, whether they are connected or not. Council stated they felt we should have another meeting to discuss this matter. The Clerk was asked to schedule a special meeting on Monday August 31, 2009 at 5:30 P.M.

E. Town Attorney:

1. Ted Schiafone – Mortgage and Note – Atty. Harris stated he had been in contact with Mike Gallaher, Ted Schiafone's attorney, concerning the mortgage and note signed by Mr. Schiafone to the Town on the water/wastewater impact fees. Atty. Harris presented a proposed Forbearance agreement to the Council from Lake Partners, LLC. The Agreement would allow the property to be sold, but our note and mortgage would stand until the property was sold. If the property does not sell, our note and mortgage remain in place. At the sale of the property, Mr. Schiafone would pay the Town \$281,600.00 for a satisfaction of his note and mortgage. This would allow Heartland Real Estate Corp. to purchase the land. Council Member Royce made a

motion to authorize the Mayor to enter into the Forbearance Agreement upon recommendation of the Town Attorney and authorize the Town Attorney to make the appropriate changes consistent with the intent discussed at this meeting; motion seconded by Council Member Wilson. On roll call, Council Member Smart, Council Member Wilson and Council Member Royce voted yes; Council Member Bastardi voted no. Motion carried 3 to 1. Mr. Wohl stated within 30 months Heartland Real Estate Corp., if they receive the funding from the State for their Affordable Housing Grant will pay the Town \$281,600.00.

2. Marty Wohl – Mr. Wohl was present and asked if the Council would now appear their Local Government Contribution Exhibit. Council Member Smart made a motion to approve and enter the Local Government Contribution Exhibit contingent upon entering a side agreement with Heartland Real Estate Corp. addressing the promise to pay the balance thirty months out and recognition that there is no assurance of a modification to the site plan or PD Ordinance and whatever other reasonable contingencies to affect those concepts; motion seconded by Council Member Royce. On roll call, Council Member Smart, Council Member Royce and Council Member Wilson voted yes; Council Member Bastardi voted no. Motion carried 3 to 1.

F. Town Clerk:

1. Lake Placid Ridge Civic Center & Disaster Shelter – Mrs. Tuck stated the Town had agreed to give the Lake Placid Ridge Civic Center an amount equal to the County’s contribution up to \$25,000.00 for the engineering on the civic center. She stated when the project was presented to the Highlands County Commissioners it had been advertently listed as \$20,000.00. She stated she would like the Council to restate their motion leaving out “equal to the County’s contribution. She further stated the Town’s portion would probably end up being less than \$25,000.00. Council Member Royce made a motion to donate \$25,000.00 to the Lake Placid Ridge Civic Center for engineering purposes; motion seconded by Council Member Wilson. On roll call, motion carried unanimously.
2. General Fund, Cemetery, Sanitation Line Item Adjustments – Mrs. Tuck reminded the Council this is something that is done each year to even out the categories in the departments that may need additional funds. Council Member Bastardi made a motion the Resolution be approved; motion seconded by Council Member Smart. On roll call, motion carried unanimously.

G. Mayor/Town Council Members:

1. Letter to County Engineer requesting Safe Route to School – Council Member Royce stated the County Engineer states they prioritize roads around school areas for construction or repair through a Safe Route to School project. Council Member Royce stated the County now has two schools that have moved up to #1 and #2 that do not need sidewalks due to the fact there are no walkers. Council Member Royce made a motion the County revise their priority list to place Tangerine Drive, Green Dragon Drive, West Interlake Boulevard and/or the areas immediately surrounding Lake Placid Elementary School, Lake Placid Middle School and Lake Placid High School; motion seconded by Council Member Bastardi. On roll call, motion carried unanimously.

PUBLIC HEARINGS:

- A. Resolution 09-01-001 – Mrs. Tuck presented Resolution 09-01-001 adopting a non-ad valorem assessment roll for the Town of Lake Placid. Council Member Royce made a motion the Resolution be adopted as presented; motion seconded by Council Member Smart. On roll call, motion carried unanimously.
- B. Tentative Rate Resolution – Mrs. Tuck presented the Tentative Rate Resolution, along with a list of assessments and property owners names. Council Member Bastardi made a motion the Resolution be adopted; motion seconded by Council Member Smart. On roll call, motion carried unanimously.
- C. Ordinance 09-595 – Amending Licensing Administrative Fee (1st Hearing) – Mrs. Tuck stated this Ordinance was not changing the Business License Tax Fee, it was only adding \$5.00 to the Administrative Fee. Council Member Bastardi made a motion Ordinance 09-595 be approved on first hearing by reading of title only; motion seconded by Council Member Smart. On roll call, motion carried unanimously.

Council Member Smart made a motion the meeting adjourn; motion seconded by Council Member Wilson. Mayor Katsanis hearing no objections declared the meeting adjourned at 9: 35 P.M.